

October 17, 2006



TRANSCRIPT
October 17, 2006

MONTGOMERY COUNTY COUNCIL

PRESENT

George Leventhal, President	Marilyn J. Praisner, Vice President
Phil Andrews	Howard Denis
Nancy Floreen	Michael Knapp
Thomas Perez	Steven A. Silverman
	Michael Subin

October 17, 2006



[MUSIC]

Council President Leventhal,
Is Reverend "Multon" here? Reverend "Multon," how do you do? Oh, I'm sorry. It's misspelled here. Reverend Nulton, we're glad you're here. Could you begin with an invocation, please? Invocation from the Reverend Lynn Nulton of Rockville United Methodist Church.

Lynn Nulton,
Let us pray. Oh God of many names, Creator of all that is seen and unseen, we lift up our praise to you, giving thanks for this day and for the new opportunities before us. We give thanks for each member of this Council and for each of their families. We thank you for the activity that goes on here in this room and for the humility and leadership of each Councilmember. We give thanks that we live in a place of civility and for this great county. We thank you for those who will protect us today, those who are involved in public service; the emergency services people, the police, the security workers, and for those who govern. We give thanks to you for the security that we enjoy here. We pray for this county and for this entire area that the needs of all for food and shelter and work, for justice and dignity, might be met. We pray for the diverse people who live here. We pray for those who live and have their businesses here and we pray for those who travel and work here; those seeking to work, as well, and to survive. We pray for those who are refugees, and we pray for those, in spite of our imperfectness and human greed. We pray for your presence. Oh, God of tenderness. and strength, today as many issues are deliberated with great wisdom, we pray that your presence will be felt. We pray that as issues are deliberated, that every human life and every human being will be remembered. We ask that liberty, justice, and equality remain a goal. Help us to remember a dedication to the needs of those in our midst who are on the outside, in the margins of society, because of age of ill health, race or sex, poverty, or any other status. We ask that the needs of those who are hungry, who need shelter and work and a piece of dignity will be met. Oh, great God, guide and bless this Council, that these men and women who carry the weight of governing this great county. Consecrate this meeting of this County Council to the an exercise of imaginative and sacrificial leadership, even in a restless world that still searches for justice and peace. We ask that you open their ears so that they may truly listen to one another. Open their eyes so that they may truly see the right ways. Open their mouths that they may speak truly with the deepest integrity. Open their hearts and minds, that they may discern the way that leads to the common good. Everlasting God of all peoples, we ask that we may all walk in the way that brings you honor and glory Amen.

Council President Leventhal,
Thank you, Reverend Nulton. We now have a Proclamation regarding Disability Mentoring Day by Councilmember Andrews.

Councilmember Andrews,



October 17, 2006

1 Good morning, everybody. It's always a pleasure to recognize the great work that's
2 being done in our county. October, as many of you recall, is Mentoring Month in
3 Montgomery County and we are doing a number of things in the County to build on that
4 and special aspects of that program. And today I have with me -- I'm joined up here by
5 Yasmin Reyazuddin, Stacy Rogers, and Angela Washington to talk about what is going
6 on in the county on Disability Mentoring Day, which is officially scheduled for tomorrow.
7 And I want to read, on behalf of the Council, a Proclamation about this event and then
8 ask the folks who are up here with me to talk a little bit about the specific program that's
9 going on tomorrow. "WHEREAS: Montgomery County government recognizes that
10 people with disabilities provide a valuable contribution to our society by actively
11 participating in the Montgomery County workforce as residents, consumers, employees,
12 employers, and effective leaders. And WHEREAS: employers benefit from mentoring
13 people with disabilities as a way of understanding the experience of individuals with
14 disabilities, developing lasting relationships with leaders in the disability community, and
15 recruiting new and emerging talent for meaningful internships and potential employment
16 opportunities. And WHEREAS: since the Americans with Disabilities Act was passed in
17 1990, more than one million people with disabilities have been successful in entering
18 the workforce. And WHEREAS: students and job seekers with disabilities should have
19 equal opportunity as maximizing their potential by fully utilizing their knowledge, skills,
20 and abilities in an environment free of systemic, physical, and attitudinal barriers in
21 order to enjoy economic independence and self-sufficiency through profitable
22 employment opportunities. And WHEREAS: Disability Mentoring Day provides an
23 opportunity for students and job seekers with all types of disabilities to pursue career
24 exploration and opportunities by spending a day with a county employee as he or she
25 goes through a work day. NOW, THEREFORE, do we, Douglas Duncan, County
26 Executive, and George Leventhal, as Council President, hereby proclaim Wednesday,
27 October 18th, 2009 as Disability Mentoring Day in Montgomery County and we
28 encourage our residents to join us in recognizing the important of this work in the lives
29 of people with disabilities." I'd like to present this to you on this day and thank you for
30 your good work. Yasmin is the person that came up with the idea for this program and
31 I'd like to have her talk about it a little bit and also ask the others to speak, if they'd like,
32 as well. Yasmin? You're right in front of the mic.

33
34 Yasmin Reyazuddin,
35 Good morning, everyone. Disability Mentoring Day is a program of the American
36 Association for People with Disabilities and it has been going on for several years in the
37 county. This is the fourth year. There are two statements that I would like to make.
38 Disability is one of those minorities that everyone can join any day. The other statement
39 will be that because of the Americans with Disabilities Act that passed about 16 years
40 ago now all the people, the job seekers that will be coming up, they may or may not
41 have disability, but they will be coming for jobs and they will try to join the workforce.
42 Sixteen years later, they are now teenagers, the people who were born beyond '88, so
43 they will be looking for jobs and they need jobs. They don't want to sit around and do



October 17, 2006

1 nothing, And Disability Mentoring Day is a door for them to open and give them the
2 opportunity to work and be productive in this society. Thank you very much.

3
4 Councilmember Andrews,
5 Thank you, Yasmin.

6
7 [APPLAUSE]

8
9 Stacy Rogers,
10 Again, good morning. And Councilmember Andrews and members of the Council, we
11 are so pleased to be here today and receive the Proclamation which will be shared with
12 our visitors tomorrow. We at the Department of Health and Human Services are
13 honored to join a cadre of county agencies spearheaded by the Department of Human
14 Resources and the Diversity Council in making this day possible. In the four years of the
15 program, the program has grown from approximately 25 student participants to over 160
16 students who will be with us tomorrow, so that is indicative of the interest, the need, and
17 the demand. So we're very happy to have numerous county employees join us
18 tomorrow, as well as a private corporate partner, Verizon. Verizon is joining us in this
19 effort, so again, thank you so much and we look forward to having some of the young
20 people join our workforce in the future.

21
22 Councilmember Andrews,
23 Thank you. This is Stacy Rogers of HHS and this is Angela Washington of the Office of
24 Human Resources. Would you like to add anything, Angela?

25
26 Angela Washington,
27 Just very briefly. I'd like to thank the Council for supporting this. This initiative requires a
28 great amount of resources, in terms of employees participating and organizing this and
29 resources in terms of just essentially feeding everybody from the morning to the
30 afternoon; it's a day-long program. So we thank you for your support, but more
31 importantly this is reflective of the county's commitment to people with disabilities, not
32 just a one-day event but our commitment to people with disabilities not only in the
33 workforce but in the community at large. So thank you very much.

34
35 Councilmember Andrews,
36 Thank you. I think our photographer wants to get a picture. So if you'll gather here.

37
38 Photographer,
39 That would be great. If you'll hold up the proclamation that would be great.

40
41 Councilmember Andrews,
42 That's wonderful, thank you.

43
44 [APPLAUSE]



October 17, 2006

1
2 Council President Leventhal,
3 Thank you very much. Next we have another Proclamation recognizing Conflict
4 Resolution Day by Vice President Praisner.

5
6 Councilmember Praisner,
7 Okay, Conflict Resolution Day is actually Thursday but the Council is going to model
8 that behavior today, right?

9
10 Councilmember Floreen,
11 Unanimous votes.

12
13 Councilmember Praisner,
14 Unanimous votes. Harold Kessler and my old friend Terry Vann. It's good to see you
15 again. This is one of the best kept secrets in Montgomery County. I know folks use the
16 center, but I think it's important for us to do everything we can to publicize the service
17 and the capacity that we have in Montgomery County for conflict resolution in some of
18 the best ways I know. And with the expertise that we have among the people who have
19 stepped forward to work on these issues and especially here we have Harold Kessler,
20 who works for the county as well with the Merit System Protection Board. And Terry and
21 I were very involved together in the Martin Luther King Commemorative Committee
22 program. Terry did a good job there of avoiding conflicts by keeping us on schedule. It
23 was great having Terry with us. So it's my pleasure today to read the Proclamation.
24 "WHEREAS: the Conflict Resolution Center of Montgomery County, affectionately
25 known as CRCMC, is a nonprofit organization dedicated to providing quality dispute
26 resolution services at no cost" -- repeat "at no cost -- to Montgomery County individuals,
27 neighborhoods, communities and County agencies. And WHEREAS: CRCMC responds
28 to a wide range of requests for conflict resolution services from individuals, families,
29 neighborhoods, and community organizations. And WHEREAS: offers mediation in
30 English and Spanish, community conferencing, a program to conference with youth who
31 have caused harm, and facilitation of public meetings and training. And WHEREAS:
32 CRCMC offers its services in the mediation process to such agencies as the District
33 Courts in Rockville and Silver Spring, the State's Attorney's office, the Commission on
34 Common Ownership, the Department of Health and Human Services, and the
35 Montgomery County Public Schools. And WHEREAS: CRCMC also responds to a wide
36 range of requests for conflict resolution services from individuals, families,
37 neighborhoods, and community organizations. NOW THEREFORE BE IT RESOLVED
38 that the County Council of Montgomery County, Maryland, Hereby proclaims Thursday,
39 October 19th, 2006, as Conflict Resolution Day in Montgomery County and it's
40 presented on this 17th day of October in the year 2006 and signed by our Council
41 President George Leventhal. So Harold and Terry, it's my pleasure to present this to
42 you and let's take a picture and then one of you might want to say something, or both of
43 you. Thank you. Terry, you first?
44



October 17, 2006

1 Terry Vann,

2 Thank you very much. Thank you, Ms. Praisner. I'm Chair of the Board of Conflict
3 Resolution Center. Instead of C-R-C-M-C, we call ourselves "Crick Mick," it's easier to
4 pronounce. I want to thank the Council for the Proclamation, but even more so, I want to
5 thank the Council for giving us the funding to allow us to begin our Latino Outreach
6 Program. We now have ten mediators who speak Spanish and we have a person at the
7 District Court when necessary and the Latino Outreach Program has taken off
8 considerably. We have our brochures both in English and Spanish and our services are
9 available to anyone in the county, without cost. I'd just like to take one second just to
10 read you our mission statement; I think that will tell you what we are all about. To help
11 individuals, groups, and communities in Montgomery County constructively manage
12 conflict by offering collaborative problem solving services, such as mediation facilitation,
13 community conferencing, and training. In pursuing its mission, "Crick Mick" is committed
14 to making its services accessible to all county residents and promoting positive
15 relationships among the many diverse groups in the county. Conflict Resolution Day is a
16 nationwide celebration; Montgomery County is celebrating it on Thursday. We are
17 having a program in this building, in the cafeteria, from 4:30 to 7:00 and you are all
18 invited. And again, thank you very much.

19
20 Councilmember Praisner,

21 Thank you. Harold, did you want to say anything?

22
23 Harold Kessler,

24 I just want to say we're all indeed fortunate to live in what is an idyllic county that's really
25 well run in all respects. What people frequently don't realize as they go through their
26 day-to-day life in this county is lots of people have lots of problems and disputes. We
27 have found with "Crick Mick," that we're a positive force for resolving these at a level
28 which eliminates the need for adjudication. And we're very pleased to provide those
29 services in the county. Thank you.

30
31 Councilmember Praisner,

32 Thank you very much.

33
34 [APPLAUSE]

35
36 Council President Leventhal,

37 Okay, we next have a presentation regarding National Business Women's Week.

38
39 Councilmember Floreen,

40 Come on up, Pat, Ginny, and Carol. We're here to celebrate National Business
41 Women's Week and I want to welcome Carol Vitarelli, Ginny Gray, and Pat Cornish.. I
42 think it's important to know this organization is in its ninth decade. The National
43 Federation of Business and Professional Women's Club was founded on July 15, 1919,
44 to promote women's issues in the workplace like elimination of sex discrimination in



October 17, 2006

1 employment and the principles of equal pay for equal work, and it's taking a little time,
2 isn't it?

3
4 [LAUGHTER]

5
6 Councilmember Floreen,
7 While women have made progress in several areas, some numbers are changing much
8 too slowly, although I will note we are making progress here on the County Council. The
9 wage gap has narrowed by only half a penny a year for the past 40 years, so it is a
10 really teeny, itty-bitty change, isn't it? And unfortunately Maryland trails an already slow
11 nation when it comes to naming women to the Boards of Directors of publicly traded
12 companies. In Maryland, board members are only 11% women and nationally only
13 14.7% of women are members of the -- reflected on the boards of the Fortune 500
14 companies. So we have a long way to go baby, don't we? Yes indeedy. But that's why
15 organizations like BPW are so important and we're very pleased to recognize them
16 today. So let me just read this Proclamation. Marilyn and I can read it. Since 1928
17 Business of Professional Women USA has sponsored National Business Women's
18 Week to highlight the accomplishments of America's working women. And...

19
20 Councilmember Praisner,
21 WHEREAS: the objectives of the National Business Women's Week include the
22 promotion of full participation and equity for women in the workplace and the
23 highlighting of the significant achievements of business and professional women on the
24 local, state, and national level. And...

25
26 Councilmember Floreen,
27 WHEREAS: women not only hold up half the sky, but also contribute enormously to the
28 prosperity and well-being of the communities in which they do business while also
29 bringing a sorely needed dose of female intuition, energy, humor, grit, and common
30 sense into the workaday world. And WHEREAS:

31 Councilmember Praisner,
32 The Montgomery County Business and Professional Women will celebrate the National
33 Business Women's Week locally with an October 17th gathering at the Gaithersburg
34 Holiday Inn, co-sponsored by the County Commission for Women. And...

35
36 Councilmember Floreen,
37 WHEREAS: Judge Marielsa Bernard, Barbara Duncan, Cheryl Kagen, Esther Newman,
38 Odessa Shannon, Evelyne Steward, Laura Wilkinson, Debora Yancer, and Yun Jung
39 Yang will be honored at the Montgomery County event, NOW THEREFORE BE IT
40 RESOLVED that the County Council of Montgomery County proclaims this week of
41 October 16th to 23rd, 2006, as National Business Women's Week and celebrates the
42 rich contributions made by Montgomery County's businesses and professional women.

43
44 Carol Vitarelli,



October 17, 2006

1 Thank you so much.

2
3 [APPLAUSE]

4
5 Councilmember Floreen,
6 Carol, would you like to say a word or so?

7
8 Carol Vitarelli,
9 I would. It's not all doom and gloom. Montgomery County has more small business
10 women owners than any other county in the state of Maryland; I think we can be very
11 proud of that. We have close to 32,000 women-owned businesses that bring in \$4.4
12 billion to the economy here in Montgomery County. So we are very pleased to be the
13 advocate for working women here in the county and to certainly promote
14 businesswomen and everything they stand for. Thank you very much.

15
16 Councilmember Floreen,
17 Well, thank you for your contributions to Montgomery County. Have a good dinner.

18
19 [APPLAUSE]

20
21 Council President Leventhal,
22 Ms. Lauer, are there any Agenda or Calendar changes?

23
24 Council Clerk Lauer
25 Yes, a few. Consent Calendar: two additional items, introduction of a special
26 appropriation relating to the Fire Safety Code, \$2,582,000. That public hearing is
27 scheduled for October 10th at 1:30. Also introducing a resolution regarding the
28 collective bargaining agreement and amendment with MCGEO pertaining to wage
29 compression reopener. That public hearing is scheduled for October 31st at 1:30. And
30 then in District Council session today we're deleting action on the Zoning Text
31 Amendment 06-18, Planned Retirement Community Zone.

32
33 Council President Leventhal,
34 Deferring.

35
36 Council Clerk Lauer,
37 Deferring. And then for the petitions today, we did receive one, a petition from a resident
38 supporting the Boyds and Dickerson MARC stations. And I also wanted to note that the
39 PHED meeting planned for Thursday this week at 2:00 is cancelled. Thank you.

40
41 Council President Leventhal,
42 Thank you. Are there minutes for approval?

43
44 Council Clerk,



October 17, 2006

1 The minutes of October 3rd for approval.

2
3 Council President Leventhal,
4 Do we have a motion to approve the minutes of October 3rd?

5
6 Councilmember Perez,
7 So moved.

8
9 Councilmember Praisner,
10 Second.

11
12 Council President Leventhal,
13 Mr. Perez has moved and Vice President Praisner has seconded approval of the
14 minutes for October 3rd. Those in favor will signify by raising their hands. It's unanimous
15 among those present. We now need a motion to approve the Consent Calendar.

16
17 Councilmember Knapp,
18 Move approval.

19
20 Councilmember Floreen,
21 Second.

22
23 Council President Leventhal,
24 Mr. Knapp has moved and Ms. Floreen has seconded approval of the Consent
25 Calendar. Mr. Andrews?

26
27 Councilmember Andrews,
28 Thank you, Mr. President. One of the key functions of any legislative branch is oversight
29 and we're immensely aided in that effort by the Office of Legislative Oversight of the
30 County Council, which regularly produces outstanding reports about the state of affairs,
31 about the status of programs, how they're working, how they might be improved, how
32 they might be coordinated better with other programs. And I wanted to commend the
33 OLO for their report that evaluated the Police Department's Victim-Witness Assistance
34 unit, which was established about five years ago in order to improve services to victims
35 of crime. We want to make sure in Montgomery County that victims aren't forgotten and
36 I think that we do have a very good system in place. There's always room for
37 improvement and one of the challenges in a large county like ours is to ensure that the
38 necessary coordination takes place between the agencies. And it's a moving target
39 because people change, of course victims of crime change, officers in the police
40 department change, and so on. And so it is important that we continue to strengthen it
41 and the recommendations that are in the report that are adopted -- recommended to the
42 Council by the Public Safety Committee today are just part of a long-term effort at
43 continuous improvement. And I think that's the way to view it. And we will continue to
44 come back -- the Public Safety and the HHS Committee -- to look at how we're doing in



October 17, 2006

1 this area because there are multiple agencies involved, from Health and Human
2 Services to the Police Department to the Sheriff's Office to the State's Attorney's office,
3 and others. And so I commend all those in the County government, and private sector
4 as well, who are working to improve victim services and we will continue to pay close
5 attention to it and continue to improve it so that we have the best system of victim
6 services in the United States. Thank you.

7
8 Council President Leventhal,
9 Ms. Praisner.

10
11 Councilmember Praisner,
12 Yes, on two items. On the Collective Bargaining Agreement resolution, what I'd like to
13 understand and have staff follow up on is the length of time it has taken for these items
14 to come over to the Council, since it looks like this may have been agreed to much
15 earlier. So if folks could look at that issue with the Office of Human Resources I'd
16 appreciate it. Secondly, I know we have a joint MFP/Public Safety Committee meeting
17 later this month, including an item on the document imaging. I think I've received
18 enough answers to my questions that, as far as I'm concerned, we may be able to
19 expedite this by contacting the individual Committee members to see whether it -- since
20 it's a grant-funded project, the concern I had was integration with other systems and
21 how much it would save as far as resources or work time, et cetera. Since those
22 questions have been answered, I'm okay with it -- without having it come to the
23 Committees, but if you can, Essie, check with folks. However, I do think the MFP and
24 Public Safety Committees need to discuss not the substance of the Special
25 Appropriation Item K, the \$2.5 million from the Fire and Rescue Service. What we need
26 to discuss is the consolidated Fire Tax as a source of funding and these challenges I
27 think we have of folks continuing to go to the Fire Tax when it is actually a portion of the
28 property tax and how we are tracking these issues. So I hope we can put that on the
29 joint Committee meeting, as opposed to the grant request, which I think has been
30 resolved and was okay with others. But of course the ultimate decision also rests with
31 Mr. Andrews.

32
33 Minna Davidson,
34 This particular supplemental appropriation requested in Item 3-K actually is supposed to
35 be fee-funded for the most part. The way we received it, it isn't entirely clear what's
36 happening so we're working on clarifying those points.

37
38 Councilmember Praisner,
39 But I do think we have raised, on a number of occasions, the issue of showing us a
40 source of funding the Consolidated Fire Tax when the Fire Tax really is a subset of the
41 Property Tax and trying to keep track of that -- I'm just a little concerned that the folks
42 across the street are using that term rather easily, without fully understanding -- and it
43 helps perpetuate, I think, the general public's misunderstanding about this pot of money.



October 17, 2006

1 So I think it would be helpful for us to have a brief discussion of that and since we have
2 a joint Committees meeting scheduled, I think that lends time for that.

3
4 Councilmember Andrews,
5 Good point.

6
7 Council President Leventhal,
8 Mr. Knapp?

9
10 Councilmember Knapp,
11 Just in quick response, I agree. And this was actually a point of conversation the
12 Committee took up yesterday. And in fact, there was even a notation that we had
13 approved as this moves forward, calling out the fact that even though it recognizes the
14 Consolidated Fire Tax District, that it is a fee collection so that we could actually
15 separate that out so we knew where these resources were coming from, not that there's
16 this limitless pile of money out there someplace. So we agree and we should discuss it
17 further because it was a point of 15 or 20-minute conversation yesterday, as well.

18
19 Joe Beach,
20 Can I say just briefly, we used Consolidated Fire Tax District because that's the name of
21 the fund. It is fee supported, to be deposited into that fund and we had no intention of
22 using the actual tax receipts.

23
24 Councilmember Praisner,
25 Yeah, but the public doesn't understand that, and I think we need to explore ways
26 collectively of addressing that issue.

27
28 Council President Leventhal,
29 Okay, if there are no further comments or questions regarding the Consent Calendar,
30 those in favor of the Consent Calendar will signify by raising their hands. It is unanimous
31 among those present. The Council now takes up an appointment to a vacancy on the
32 Board of Appeals. We interviewed a number of excellent candidates and I am prepared
33 now to entertain a motion nominating any candidate to the Board of Appeals. Mr. Denis.

34
35 Councilmember Denis,
36 Thank you, Mr. President. As usual, we have a great list to select from and I want to
37 commend all those who put themselves forward. I am going to nominate and I do
38 nominate Catherine G. Titus for appointment to the Board of Appeals. I believe that she
39 has the wisdom, balance, and vigor that is needed to invest this position with the quality
40 that it deserves. We just had a Proclamation regarding Conflict Resolution Day, so I
41 think it's highly appropriate to have Cathy Titus on the Board at this particular time
42 because those are her skills. This is a quasi-judicial body and the people who serve on
43 it are public officials. Looking at her resume and her background that is known to so
44 many of us. She's been the Vice Chairman of the Town Council for the town of Chevy



October 17, 2006

Chase, board member of the Glen Echo Partnership, member of the Charter Review Commission, and work that so many of us will recall as a confidential aide to my predecessor, Betty Ann Krahne, and did an absolutely outstanding job in that capacity, as she has done in all others. She's been President of the Leland Community Center corporation, a board member of the BCC High School PTA and the board member of the Chevy Chase Elementary School PTA. So Cathy has been active in her community at all levels and I do believe that she would make an outstanding member of the Board and I am honored to nominate her.

Councilmember Praisner,
Second.

Council President Leventhal,
Okay, the name of Cathy Titus is before the Council. Are there further nominations for the vacant position on the Board of Appeals? Since no other names have been placed in nomination, those in favor of appointing Cathy Titus, Catherine G. Titus, to the Montgomery County Board of Appeals will signify by raising their hands. It's unanimous, Ms. Titus is appointed. We now turn to an Amendment to the Comprehensive Water Supply and Sewerage System Plan, Item 5 on our agenda. Mr. Levchenko, what do we have to do here?

Keith Levchenko,
This item was deferred originally on August 1st as part of the package of amendments. The Council had asked the Planning Board to work with the community applicant to consider proposals that would be consistent with the Olney Master Plan. As a result of that action, the Planning Board took up the issue again on September 28th and recommended conditional approval of the Water and Sewer category change and I've noted the conditions in the packet that we can get into. And noted that that was based on Planning staff's work with the community and with the applicant to help move the project to the preliminary plan stage where the substantive issues could be addressed. So where we are today is we have a deferred action coming back to the Council with a recommendation from staff for conditional approval based on the Planning Board action of September 28th. If it's approved then the development related to this would move into the preliminary plan stage and be reviewed at the Planning Board.

Council President Leventhal,
Chairwoman Floreen.

Councilmember Floreen,
Thank you, Mr. President. As the Council will recall, we pulled this from the agenda previously to make sure that the Planning Board's comments on this item would be consistent with the language in the Master Plan. And if you look at -- as Keith's described the process, it did not come before Committee, frankly, because the Planning Board did what we asked them to do. And the proposed language is contained on Circle



October 17, 2006

1 3 which just really reiterates the points that Keith has made and that the Master Plan
2 indicated should be adhered to in a review of W3/S3 approval here. So which our action
3 then would be to give them conditional approval, dependant upon the Planning Board's
4 approval of a preliminary plan that utilizes the RNC optional cluster development
5 method, fully satisfies the purposes and objectives of the zone, and the Master Plan and
6 the Rustic Roads requirements, provides sewer service only through access to an
7 existing main at the west of the site, and may utilize grinder pumps, dependant upon the
8 Planning Board's finding that that's appropriate and is appropriately minimized. So that's
9 consistent with what the Master Plan said and that is what has flown through up to the
10 Council on this subject.

11
12 Council President Leventhal,
13 Ms. Praisner.

14
15 Councilmember Praisner,

16 Yes, as my colleagues know, I had communicated to them an interest in trying to
17 respond not just to what is on Circle 3, but to the Planning Board's full memo, which
18 also includes some other dialogue. I want to make clear -- that appears on Circle 8. I
19 want to make clear that my concerns do not come out of any conversation or advocacy
20 from the community that participated in the dialogue, but come out of my opportunity to
21 go back and review the Master Plan and the actions that were taken. And as my memo
22 indicates to my colleagues, as I recall the discussion during the Master Plan, there was
23 significant conversation about the use of grinder pumps and how much development
24 could occur in this area without grinder pumps -- and by this area, I mean the southeast
25 quadrant -- and the need to make sure that as we receive response from individual
26 property owners, not this one but other property owners, that determinations about
27 capacity and zoning were predicated on a lot of the responses that I received. That
28 were received. I'm okay with the action of the Council and I will not introduce any
29 motions. But for the record, I want to make clear that as we discussed the Master Plan
30 we placed specific zoning on each of the parcels, the east side and the west side of
31 Bachelor Forest Road, and the good Council large institution decision predated the
32 discussion of the Master Plan. So I don't think we ever were told that the sewer for that
33 facility was placed such that it might serve the other property on the east side. But once
34 you have used that property to the extent that one has with the large use that is on that
35 property I fail to see how there can be any density left to transfer anywhere. And
36 although the Planning Board says it will determine that through the site plan review I
37 think it's important to put on the record that there is a firm maximum number of units that
38 was discussed by the Council -- .33 with .4 for MPDUs -- and that's pretty clear, as well
39 as the fact that development has already occurred to such a magnitude that there is no
40 density left to transfer. But I'm okay with the resolution as presented and I will support it.

41
42 Council President Leventhal,
43 Good. Okay, thank you, Ms. Praisner. There are no further comments and so those in --
44 well, we need a motion. We -- no, the T&E Committee didn't actually send this, so...



October 17, 2006

1
2 Councilmember Floreen,
3 I'll move approval of the Council staff recommendation.

4
5 Council President Leventhal,
6 Okay.

7
8 Keith Levchenko,
9 I have one -- just one simple edit to the resolution that's presented.

10
11 Council President Leventhal,
12 Mr. Levchenko.

13
14 Keith Levchenko,
15 DEP staff suggested we also note in Bullet 4, with regard to the grinder pump issue, that
16 we also include that their use is consistent with WSSC policies, just because WSSC
17 does have to actually deal with these after they're in place, so they have a role to play
18 here. And we thought rather than just assume that that's in the background, we felt it
19 was important to put up front in the resolution since we're already mentioning in the
20 Planning Board as dealing with the grinder pump issue, as well. So I have...

21
22 Councilmember Floreen,
23 That goes without saying, so it's fine to say that.

24
25 Keith Levchenko,
26 I have just written in, just for the record, it would read, "May utilize grinder pumps if the
27 Planning Board finds appropriate and their use is consistent with WSSC policies." And
28 then it continues, "Such use must be minimized and limited to access the existing main
29 to the west of the site."

30
31 Council President Leventhal,
32 Okay, that's acceptable to the maker of the motion, Ms. Floreen, and the motion was
33 seconded by Mr. Perez. Those in favor of the resolution regarding the Hyde property will
34 signify by raising their hands. It's unanimous among those present.

35
36 Councilmember Subin,
37 That includes me.

38
39 Councilmember Praisner,
40 Hi, "me."

41
42 Council President Leventhal,
43 Mr. Subin is also in favor. It's Consensus Day Item 6...



October 17, 2006

1 Councilmember Praisner,
2 It's Conflict Resolution Day.

3
4 Councilmember Subin,
5 Oh, you don't need me.

6
7 [LAUGHTER]

8
9 Council President Leventhal,
10 ...Bill 38-06, which corrects technical, typographical, grammatical, and codification
11 errors in, and makes stylistic, clarifying, and conforming amendments to several
12 provisions in county law. I'm expecting debate on this matter will last until about 3:00 pm
13 this afternoon.

14
15 [LAUGHTER]

16
17 Councilmember Perez,
18 I don't know nothin' about these. Typos and grammar?

19
20 Council President Leventhal,
21 And we actually need a motion on this, as well. This did not come through Committee.

22
23 Councilmember Praisner,
24 So moved.

25
26 Council President Leventhal,
27 Vice President Praisner has moved and Mr. Perez has seconded approval of Bill 38-06.
28 Is there discussion on the bill? There is not. The clerk will call the roll.

29
30 Council Clerk,
31 Mr. Denis?

32
33 Councilmember Denis,
34 Yes.

35
36 Council Clerk,
37 Ms. Floreen?

38
39 Councilmember Floreen,
40 Yes.

41
42 Council Clerk,
43 Mr. Subin?



October 17, 2006

1 Councilmember Subin,
2 Yes.

3
4 Council Clerk,
5 Mr. Silverman?

6
7 Councilmember Silverman,
8 Yes.

9
10 Council Clerk,
11 Mr. Knapp?

12
13 Councilmember Knapp,
14 Yes.

15
16 Council Clerk,
17 Mr. Andrews?

18
19 Councilmember Andrews,
20 Yes.

21
22 Council Clerk,
23 Mr. Perez?

24
25 Councilmember Perez,
26 Yes.

27
28 Council Clerk,
29 Ms. Praisner?

30
31 Councilmember Praisner,
32 Yes.

33
34 Council Clerk,
35 Mr. Leventhal?

36
37 Council President Leventhal,
38 Yes. The bill passes 9-0. I am going to miss those codification errors.

39
40 [LAUGHTER]

41
42 Council President Leventhal,
43 Agenda Item 7: Cable Communications amendments has been reviewed and
44 recommended by the Management and Fiscal Policy Committee. Chairwoman Praisner.



October 17, 2006

Councilmember Praisner,

Yes, thank you. The recent activity related to cable franchises has led our staff, the Executive Branch, and the County Attorney's office and our staff and the Management and Fiscal Policy Committee to review our laws, which predate much activity that has taken place at the federal level. As the packet indicates the 1996 Telecommunications Act, which amended the 1934 Communications Act and provides the context in which the federal government and state and local governments review franchises for the delivery of cable service, et cetera. Many of the changes that we are making are consistently not being followed at this point by the county. In essence, we're using this opportunity to clean up legislation that it has not been our practice to follow. So it's a good practice to do that, as well. In the Committee, we had some conversation about some of the language that had been proposed and made some modifications to the language that the Executive had sent over. With the support of the Executive Branch, on reflection, the language proposed did not respond comprehensively to some of the things that we continued to do and might have left some confusion. So for example, on page 2 you'll see under definitions, the bill would have deleted the definition of franchise agreement. The Committee recommended maintaining this definition, but substituting the word "agreement" for "contract" on the advice of legal counsel, who explained that a franchise agreement is not a traditional contract. The Committee also recommended amending the definition of subscriber to delete the reference to "the cable system" because this phrase was unnecessary. In addition, the Committee recommended an amendment to make it clear that the Executive Branch decides when is a filing made for an application for a franchise, for applying for that, is complete. So the language on page 3 responds to that view that the Executive would make the determination or the Executive's designee. Much of the conversation within the Committee discussed when exceptions to the definition of a transfer or what constitutes a transfer of a franchise, what experience, what activity on the part of the holder of the franchise would constitute and would trigger certain activities by the applicant or the franchisee and also by the County. In our conversation, and up until a few minutes ago, there was a difference, at least between the Committee chair and the Executive Branch, on how to phrase the item on page 3, which is the sale of ownership or other interest in an entity controlling a franchise, either directly or indirectly, and triggering that difference to the conditions within the County, namely whether there's buildout or not. In our conversations within the Committee, the Committee majority -- and this was the 2-1 vote and Mr. Andrews is not fully aware of all the language suggestions from Council attorney and the conversations that have been taking place, so it may not be a Committee recommend -- at this point, it's my recommendation. But the concern related to in that period when we are not at full buildout, the concern being to retain some -- or to how you treat a sale or transfer of ownership because that period is a very important one from the standpoint of the community and the County in order to make sure that, or be concerned about, full implementation of what our expectations are by the franchise and to hoping and requiring the same kind of commitment from the corporate body that will own -- the parent corporation -- same kind of commitment to our county as we had with those who



October 17, 2006

1 controlled the organization beforehand. And obviously before buildout is -- before
2 completion of the franchise is a very important period. You wouldn't want to leave us
3 with not the fulfillment of the obligations at that point. Mr. Pasternak had suggested
4 alternative language that appears on page 3 that would be a commitment from the
5 parent organization -- in our desire to reach consensus and to avoid conflict on this,
6 Council staff...

7
8 [LAUGHTER]

9
10 Councilmember Praisner,
11 I'm going to work this as much as I can -- Council staff -- a little conflict resolution there.

12
13 Keith Levchenko,
14 Let's make every day Conflict Resolution Day.

15
16 Councilmember Praisner,
17 Let's do that, huh? Council staff worked on some alternative language, which Mr.
18 Pasternak accepted in his spirit of conflict resolution. It's not in front of us here and I
19 don't know that it's been typed and available, and as I said, the Committee majority has
20 not had an opportunity to hear it. But Sonya, can you read on page 3? It would refer to
21 lines 129 to 130, I think, in the packet.

22
23 Sonya Healy,
24 Yeah, it's actually the bill line number is 112-116 and it's on Circle 6, but if you look at
25 the bottom of page 3, it would read, "If the successor-controlling entity commits in
26 writing that it will not take any action to impede the franchisee from satisfying all
27 obligations under the franchise agreement, including but not limited to completing a
28 system buildout." So that would encompass the buildout concern.

29
30 Councilmember Praisner,
31 And I'm okay with that because that responds to my concerns.

32
33 Councilmember Andrews,
34 I'm fine with that.

35
36 Councilmember Praisner,
37 And Mr. Andrews is okay; is Mr. Denis okay with that? Then it is a unanimous
38 Committee recommendation. The next issue that we discussed -- so in essence, we
39 have continued to have Committee and Executive Branch support for each of the
40 changes. The Committee recommended that when we're talking about financial reports,
41 that the documents be certified by a franchise officer and audited by a certified public
42 accountant. That allows us to make sure that it's not just an individual with a company
43 that goes through that process. Customer service requirements: the Committee agreed
44 that the provisions requiring the cable office to approve all notices before a franchisee



October 17, 2006

1 sends a notice to subscribers should be repealed. That's what the staff -- Executive
2 Branch had also recommended, that's what the legislation that came over included, but
3 we were concerned that there be some encouragement that these documents be
4 provided to the County before the notices are sent to subscribers. The point being that
5 from a free-speech perspective, the company has a right to communicate with their
6 customers, but we also know from a practical perspective that the phone calls, when
7 those bills or notices or information hit the mailbox and hit some kitchen table, the
8 phone calls are going to come to the cable office. And it would be better if the cable
9 office knew about it ahead of time and in some cases, there might even be a
10 suggestion, if folks are willing to accept it, of a way of phrasing things that would be
11 more reasonable from a standpoint of the community understanding. But we have
12 amended the language and I believe the Executive Branch is not opposed to the
13 amendment. The language would read, "the franchisee must provide to the County a
14 copy of all forms describing customer service policies and procedures when they are
15 distributed to subscribers and, if possible, should provide the forms to the County before
16 they distributed." It doesn't require it; it encourages it. There was an element of
17 enforcement remedies, which eliminates the County's ability to reduce the duration of
18 the franchise, and while that may be something that, on first blush one would think we
19 would want to retain, the reality is that we've never before used this amendment and the
20 likelihood is hard to justify because its lack of use and not likely to be used. The next
21 item is the County purchase of the cable system, language repeals the County's
22 authority to purchase a cable system. Again, highly unlikely that the County would ever
23 exercise this option, because the County would become a market participant under
24 federal law and would then lose the ability to regulate even basic cable rates. And
25 Subsection B would deny a franchisee's right to a jury trial so the Committee agreed to
26 delete those. The next item deals with our Cable Compliance Commission. The
27 language continues to support a Cable Compliance Commission to adjudicate
28 consumer subscriber complaints related to cable service. The Executive will be drafting
29 regulations specifying the types of claims that the CCC can adjudicate. The bill narrows
30 the claims to make sure that we're clear that the CCC would not have authority beyond
31 the issues that we've already defined as the scope for the Cable Compliance
32 Commission. So eliminating other products and services. After the Committee work
33 session, Executive and County Attorney staff questioned whether a cable operator
34 could challenge the language, under federal law, that we had originally proposed. The
35 Council's legal staff suggested alternate language, which the County Attorney's office is
36 comfortable with which continues, I think, to retain what the Committee was interested
37 in as far as Consumer Protection claims that arise under this chapter. The bill also does
38 one other thing and that is to repeal the sunset date for the CCC and makes the CCC a
39 permanent body. So with that, the Committee unanimously recommends approval.

40
41 Council President Leventhal,
42 Ms. Floreen.

43
44 Councilmember Floreen,



October 17, 2006

1 Thank you, Mr. President. I just had a comment, I'm very comfortable with the
2 Committee's recommendations on all this. I just wanted to ask about the status of the
3 franchise agreements. I know that we've had one that is going to public hearing, is that
4 right?

5
6 Councilmember Praisner,
7 Uh-huh.

8
9 Councilmember Floreen,
10 And I wanted to urge that we look at this and any revisions to the other franchise
11 agreements that we have in the same context.

12
13 Councilmember Praisner,
14 Well, any revisions would have to come over, would have to have a public hearing,
15 would have to go to Committee, and then would be dealt with by the Council. So I
16 expect that should those requests come to the Council formally, that the Council will
17 consider them, but much as we had significant testimony and community comments at
18 the Executive Branch... We haven't had our hearing on the franchise request from
19 Verizon as yet but I suspect that even with the daytime hearing, whether in writing or at
20 the hearing, we will receive community comments on this franchise. So as is our
21 practice and our policy and good policy, I believe, and I would think that the Council
22 agrees, before one takes any action, one should hear from the public and have a formal
23 request in front of us. And we anticipate that that may occur and then that would be the
24 process for dealing with them.

25
26 Councilmember Floreen,
27 Right. And I just wanted to urge that we be -- I am not sure if it will be this Council.

28
29 Councilmember Praisner,
30 It depends upon the process, the schedule, and Linda Lauer.

31
32 Councilmember Floreen,
33 I'm very vague on that particular schedule and I certainly defer to you, Ms. Praisner, on
34 the subject, but I think it would be in everyone's interest to deal with all of this in a
35 package where the memories are fresh as to...

36
37 Councilmember Praisner,
38 Well, but it can't be a package because there are three separate entities and so you
39 can't deal with the three separate entities in one action.

40
41 Councilmember Floreen,
42 Well, I appreciate that.

43
44 Councilmember Praisner,



October 17, 2006

1 It would be three separate actions.

2
3 Councilmember Floreen,

4 And I'm sure you'd agree in making sure that we're consistent in our treatment of the
5 various franchisees. I wanted to mention that and say I look forward to working on
6 whatever agreements come on us whenever they come. Thanks.

7
8 Council President Leventhal,

9 Madam Chair, I -- you were giving a very thorough description of the Committee's work
10 and I was conferring with a colleague -- on page 3, the alternative amendment proposed
11 by Mr. Pasternak, is it the Committee's intent to include that new language?

12
13 Councilmember Praisner,

14 Yeah.

15
16 Council President Leventhal,

17 That is included in the...

18
19 Councilmember Praisner,

20 No, not Mr. Pasternak's language, the language that Sonya has.

21
22 Council President Leventhal,

23 "If the successor controlling entity commits in a manner satisfactory to the Executive
24 that it will not take any actions"...

25
26 Councilmember Praisner,

27 No, no, no.

28
29 Council President Leventhal,

30 No. Okay.

31
32 Councilmember Praisner,

33 The language -- Sonya, you want to read the language again?

34
35 Sonya Healy,

36 It will be, "If the successor controlling entity commits in writing that it will not take any
37 action to impede the franchisee from satisfying all obligations under the franchise
38 agreement including, but not limited to, completing a system buildout."

39
40 Council President Leventhal,

41 Okay. Thank you.

42
43 Sonya Healy,

44 And that has been vetted.



October 17, 2006

1
2 Council President Leventhal,
3 And Mr. Pasternak was nodding his head that that is consistent with whatever Verizon
4 and the Executive Branch had negotiated, or at least fulfills the agreement.
5
6 Councilmember Praisner,
7 The conflict resolution was with the Executive Branch and the MFP Committee.
8
9 Council President Leventhal,
10 There we go; we're in conflict resolution mode today. Are there any further comments or
11 questions on Expedited Bill 40-06? If not, the clerk will call the roll.
12
13 Council Clerk,
14 Mr. Denis?
15
16 Councilmember Denis,
17 Yes.
18
19 Council Clerk,
20 Ms. Floreen?
21
22 Councilmember Floreen,
23 Yes.
24
25 Council Clerk,
26 Mr. Knapp?
27
28 Councilmember Knapp,
29 Yes.
30
31 Council Clerk,
32 Mr. Andrews?
33
34 Councilmember Andrews,
35 Yes.
36
37 Council Clerk,
38 Mr. Perez?
39
40 Councilmember Perez,
41 Yes.
42
43 Council Clerk,
44 Ms. Praisner?



October 17, 2006

Councilmember Praisner,
Yes.

Council Clerk,
Mr. Leventhal?

Council President Leventhal,
Yes. Mr. Silverman is here.

Council Clerk,
Mr. Silverman?

Councilmember Silverman,
Yes.

Council President Leventhal,
Okay, the bill carries 8-0.

Councilmember Praisner,
Shall we move to 41-06?

Council President Leventhal,
Yeah, but you know what we need to do is we need approval of the Legislative Journal.

Council Clerk,
Oh, okay.

Council President Leventhal,
I skipped over that earlier. Is there a motion to approve the Legislative Journal of October 3rd? Mr. Knapp has moved and Ms. Praisner has seconded the Legislative Journal of October 3rd. Those in favor will signify by raising their hands. It is unanimous among those present. Next before the Council is Expedited Bill 41-06 relating to Consumer Protection Internet Access. It is recommended to the full Council by the Management and Fiscal Policy Committee. Chairwoman Praisner.

Councilmember Praisner,
Yes, Bill 41-06 deals with Consumer Protection: Internet Access. In essence, it codifies in the Consumer Protection section of the bill what we already have in place elsewhere, but legitimately needed to move to the Consumer Protection area, and deals with -- and was, in essence, recommended by the County Executive and supported by the cable administrator, as well. Bill 41-06 would prohibit certain merchants from engaging in unfair trade practices with respect to Internet access, transfers regulation, as I said, from Internet access service from the County Cable Law to the Consumer Protection



October 17, 2006

1 law, authorizes the Executive to adopt minimum Internet access service standards by
2 regulation, which would replace similar current regulations that we have in place under
3 the Cable Law. One issue that we were grappling with was the issue associated with the
4 question of the intake and adjudication discussion process from a Consumer Protection
5 issue and our outstanding cable office to make sure that it is the intent of the Council
6 and the Executive Branch that things remain as they are. That the cable office which
7 processes the cable compliance issues, et cetera, and the regulations will enforce that,
8 that we assign primary and secondary jurisdictions so that we're clear that the cable
9 office -- while we have some flexibility -- that the cable office will retain the principle
10 responsibility to handle the consumer complaints that may come in this way. I have
11 every expectation that the Office of Consumer Protection and the cable office would will
12 collaboratively on issues, but also that the primary lead will come out of the cable office
13 where it has been. And with that, the Committee recommends approval.

14
15 Council President Leventhal,
16 Mr. Silverman.

17
18 Councilmember Silverman,
19 Thank you, Mr. President. I just wanted to ask the Committee chair to clarify something,
20 since I was trying to read both of these things simultaneously. Is it your understanding,
21 is it everybody's understanding, that the combination of passing both of these bills will,
22 in effect, capture Verizon?

23
24 Councilmember Praisner,
25 For the service that we're talking about? Yes.

26
27 Councilmember Silverman,
28 Yes, for internet service.

29
30 Councilmember Praisner,
31 Yes.

32
33 Councilmember Silverman,
34 Okay, does it also -- do these bills or the franchise agreement, either one or both,
35 capture them for purposes of jurisdiction of the Cable Commission over customer
36 service issues?

37
38 Councilmember Praisner,
39 Yes.

40
41 Councilmember Silverman,
42 Okay, great. Thanks.

43
44 Council President Leventhal,



October 17, 2006

1 Okay.
2
3 Councilmember Praisner,
4 Recognizing, Mr. Silverman, that we haven't dealt with the franchise and they don't have
5 a franchise yet.
6
7 Councilmember Silverman,
8 I understand that.
9
10 Councilmember Praisner,
11 Okay.
12
13 Council President Leventhal,
14 Excellent. Expedited Bill 41-06 is before the Council. The clerk will call the roll.
15
16 Council Clerk,
17 Mr. Denis?
18
19 Councilmember Denis,
20 Yes.
21
22 Council Clerk,
23 Mr. Silverman?
24
25 Councilmember Silverman,
26 Yes. Come here.
27
28 Councilmember Floreen,
29 Right here. Yes.
30
31 Council Clerk,
32 Mr. Subin?
33
34 Councilmember Subin,
35 I have to recuse myself.
36
37 Council Clerk,
38 Mr. Knapp?
39
40 Councilmember Knapp,
41 Yes.
42
43 Council Clerk,
44 Mr. Andrews?



October 17, 2006

1
2 Councilmember Andrews,
3 Yes.
4
5 Council Clerk,
6 Mr. Perez?
7
8 Councilmember Perez,
9 Yes.
10
11 Council Clerk,
12 Ms. Praisner?
13
14 Councilmember Praisner,
15 Yes.
16
17 Council Clerk,
18 Mr. Leventhal?
19
20 Council President Leventhal,
21 Yes. The bill passes 8-0. We now have before us Bill 26-05 relating to...
22
23 Councilmember Subin,
24 8-0-1.
25
26 Council President Leventhal,
27 A recusal is the same as an abstention then? Okay, 8-0-1.
28
29 Councilmember Subin,
30 I don't want to mince words with that; I'm not abstaining. An abstention is different than
31 a recusal.
32
33 Council President Leventhal,
34 Okay, very good. The record will reflect, as it does, that Mr. Subin has recused himself.
35
36 Councilmember Subin,
37 I don't abstain even when I want to.
38
39 Council President Leventhal,
40 Okay. Thank you, Mr. Subin. Bill 26-05 is relating to Stormwater Drainage and Runoff.
41 It's recommended to the full Council by the T&E Committee. Chairwoman Floreen.
42
43 Councilmember Floreen,



October 17, 2006

1 Thank you, Mr. President. You'd think that a bill having to do -- well, it's appropriate
2 today, indeed, that it's raining. We have been working on this bill for a very long time.
3 And come on up, Shahriar. And one would think that would be simple to craft a bill
4 having to do with water runoff from infill lots, but it turns out that it's been quite an effort.
5 I did want to thank the many people who have been engaged in bringing this project to
6 fruition. It certainly proved much more complicated than I expected a year ago when we
7 introduced the bill. But, to quote Albert Einstein, "We can't solve problems by using the
8 same kind of thinking we used when we created them." So I am very pleased about this
9 because it brings in new thinking and creative methods to address the issues of water
10 runoff. And during this period, we have really benefited from the Stormwater Partners'
11 engagement in all of this. And so I wanted to thank DPS, Shahriar Amiri, and for all your
12 work, Diane Cameron, Wayne Goldstein from the environmental community, from their
13 creative solutions for the working group, and the small builders in the county, who will
14 be implementing all of these recommendations. Everyone came in in the spirit of
15 compromise and it worked, and of course, the bill got longer, which appears to be the
16 nature of the beast. Basically this bill requires that for new residential construction an
17 applicant is going to be required to produce a plan that shows -- that addresses the
18 drainage and that shows a solution. And I am told that, as drafted, the bill will affect -- as
19 currently before the Council, not as drafted -- it would affect about a thousand building
20 permits a year. The cost assumptions about what this would entail have been based on
21 that. I understand that Ms. Praisner has a suggestion for upping that and I'll let -- I don't
22 have a particular problem with that because as it was introduced, we had no building lot
23 limitation, but I understand the department's concern that this may add -- changing the
24 numbers may add an additional workload. Ms. Praisner let us know that she was
25 advocating that this apply to lots -- the bill as before us applies to all lots smaller than
26 10,000 square feet. That was the department's best guess as to how -- as to the most
27 affected areas, which are basically Downcounty, inside the Beltway, infill kinds of
28 projects. Not all, but a majority of them. Ms. Praisner, I understand, proposes that we
29 put that number at 15,000 square feet. So I don't know the actual implications of that.
30 I'm sure it will certainly include more lots, but it will include those lots that are not
31 currently subject to stormwater management requirements otherwise. So it does
32 capture the infill projects that have created so many challenges for their neighbors and I
33 really think is the underbelly of the mansionization effort; the real-life implications of
34 building new homes too close to existing homes. That's the challenge we're trying to
35 address here in a practical way, in a meaningful way, with solutions that everyone
36 understands and that the department can effectively management. Mr. Faden, do you
37 want to take - you have some additional language in here.

38
39 Michael Faden,
40 Madam Chairman, the only addition we would add is the effective date provision; it's on
41 page 2 of the packet. DPS requested, and we thought it was reasonable, an extension
42 of roughly a month, to March 1st, 2007, for the bill's effective date so they can get to
43 work and complete the design guidelines they're now working on.



October 17, 2006

1 Councilmember Floreen,
2 And this would apply to all permits filed after that date then.

3
4 Michael Faden,
5 Right.

6
7 Councilmember Floreen,
8 So all now projects for additional new homes or additions larger than 400 square feet
9 would have to go through this additional regulatory review and approval process.

10
11 Shahriar Amiri,
12 And Madame Chair, if I may -- Shahriar Amiri, Building Construction Chief, DPS. We've
13 been actually working on a fiscal analysis. This has been ever-changing draft and
14 original fiscal amounts took into consideration is going to apply to all building permits
15 that are issued in the county. Obviously, the version that we came up in the Committee,
16 or the task group, was much smaller, and that really translated to roughly around a
17 thousand permits that are affected by legislation, and as of last week, we were working
18 on a fiscal analysis should this go to 15,000 square foot. And let me give you a little bit
19 of a meaning what the thousand square foot roughly, at least there is some ideas
20 around the Council what that means. That really means somewhere in the
21 neighborhood of 20% increase in residential permit fees for a 10,000 square foot. I tried
22 to get the number, when I heard this morning that there is a proposal to 15,000. I
23 couldn't; I need a couple of days to pull that number, what the differences would be. But
24 I just wanted the Council to have an idea about what the 10,000 square foot would
25 mean in terms of increasing the staffing, at least fee wise, it's 20% increase in
26 residential fees. I don't know what the effect of 15,000 would be at this point.

27
28 Councilmember Floreen,
29 So...

30
31 Councilmember Knapp,
32 What's the real number? What's a 20% increase roughly equate to?

33
34 Shahriar Amiri,
35 Residential permits fees ranges anywhere from \$750 for a smaller addition to about
36 \$1,500 on the upper limits, so adding 20% of that...

37
38 Councilmember Knapp,
39 So \$150 to \$300?

40
41 Shahriar Amiri,
42 Correct.

43
44 Councilmember Knapp,



October 17, 2006

1 Okay.

2
3 Councilmember Floreen,
4 So that's the Committee -- the Committee recommendation is that the 10,000 square
5 foot lot size number -- we did not have an opportunity to discuss Ms. Praisner's
6 proposed language to 15. I personally don't have any difficulty with that. So I would
7 move the language before us with that addition.

8
9 Councilmember Subin,
10 Second.

11
12 Michael Faden,
13 And the effective date.

14
15 Councilmember Floreen,
16 Yeah.

17
18 Michael Faden,
19 And the effective date provision.

20
21 Councilmember Floreen,
22 And the effective date.

23
24 Council President Leventhal,
25 Okay, Ms. Floreen has moved and Mr. Subin has seconded an amendment to the
26 Committee's recommendation including Ms. Praisner's language. Ms. Praisner.

27
28 Councilmember Praisner,
29 I appreciate the language and I am going to invoke the Leggett Rule and not make any
30 comments.

31
32 Council President Leventhal,
33 Very good. That's it then.

34
35 [LAUGHTER]

36
37 Councilmember Floreen,
38 Yes, indeed.

39
40 Council President Leventhal,
41 Those in favor of Bill 26-05 as amended, we need to have -- that's right, the clerk will
42 call the roll.

43
44 Council Clerk,



October 17, 2006

1 Mr. Denis?
2
3 Councilmember Denis,
4 Yes.
5
6 Council Clerk,
7 Ms. Floreen?
8
9 Councilmember Floreen,
10 Yes.
11
12 Council Clerk,
13 Mr. Subin?
14
15 Councilmember Subin,
16 Yes.
17
18 Council Clerk,
19 Mr. Silverman?
20
21 Councilmember Silverman,
22 Yes.
23
24 Council Clerk,
25 Mr. Knapp?
26
27 Councilmember Knapp,
28 Yes.
29
30 Council Clerk,
31 Mr. Andrews?
32
33 Councilmember Andrews,
34 Yes.
35
36 Council Clerk,
37 Mr. Perez?
38
39 Councilmember Perez,
40 Yes.
41
42 Council Clerk,
43 Ms. Praisner?
44



October 17, 2006

1 Councilmember Praisner,
2 Yes.

3
4 Council Clerk,
5 Mr. Leventhal?

6
7 Council President Leventhal,
8 Yes. The bill passes 9-0. We now have before us Expedited Bill 45-06, Forest
9 Conservation: Protection of Champion Trees, recommended by the T&E Committee.
10 Chairwoman Floreen.

11
12 Councilmember Floreen,
13 Thank you, Mr. President. Let me just say that we understand that Councilmember
14 Denis is a strong advocate of Champion trees, particularly in his district, but throughout
15 the county, indeed, and so we're pleased to support his bill. We had a good
16 conversation about this and I just wanted to make the comment that we know that
17 there's a lot of interest a lot of quarters with respect to further work on tree conservation,
18 preservation, and the Forest Conservation law generally. And I am pleased that we've
19 created this new -- it's a commission, right? That we just created that's going to be
20 looking at these trees and urban tree issues generally. 'Cause I would hope that they
21 will be in a position to advise us as to consistent policies throughout the county that will
22 allow us to make sure that we're doing all that we can to preserve trees. Mr. Faden, I
23 think you made a couple of changes in response to the Committee conversation. You
24 want to take us through those?

25
26 Michael Faden,
27 Yes, the Committee asked for an amendment which was not before them, staff drafted
28 after the Committee session, which is shown on, as it's in the packet, on lines 37
29 through 41. But after further discussion with the chair, we realized that the amendment
30 goes further than the Committee had intended, and so we would revise it to stop on line
31 39 at the word "notified" and delete the rest of the language on lines 39, 40, and 41.
32 Therefore, the amendment would be limited to requirement that the Planning staff notify
33 DPS when the Forest Conservation law applies to certain activity that they would
34 otherwise not be aware of.

35
36 Councilmember Floreen,
37 I think the objective here was to make sure that we were adopting policies that were
38 consistent with the Forest Conservation laws. And there is some need to update that
39 and make sure that both the notification issues and the permit issues are consistent. So
40 that will be a major task in the next year or so, to look at the Forest Conservation law
41 and bring it up to speed and give it all the teeth that folks think that it currently lacks. So
42 I think that's consistent with the Committee conversation on that subject. Thank you, Mr.
43 Faden. So that's the Committee recommendation, I think, with Mr. Faden's correction.
44



October 17, 2006

1 Council President Leventhal,
2 Mr. Subin.

3
4 Councilmember Subin,
5 Thank you, Mr. President. I thank Mr. Denis for putting this in. Obviously with the
6 resolution that the Council passed earlier, it is an indication that I have some interest in
7 the whole issue of trees.

8
9 Councilmember Praisner,
10 It'll come back and bite you.

11
12 Councilmember Perez,
13 Are you recusing yourself, Mr. Subin, on this one because of your...

14
15 Councilmember Silverman,
16 Treehugger!

17
18 [LAUGHTER]

19
20 Councilmember Praisner,
21 You owe them, don't you?

22
23 Councilmember Subin,
24 Why is it every time I open my mouth, I seem to fall into a pile of...something?

25
26 Councilmember Floreen,
27 Leaves.

28
29 Councilmember Subin,
30 And I wasn't even thinking of that.

31
32 Councilmember Silverman,
33 We know how close you are to trees.

34
35 Councilmember Subin,
36 Maybe I ought to take this all back. In my deep and abiding interest of trees, such that I
37 go to hug them as hard as I can. It is my understanding that DEP has been rebuffed
38 over the last couple of years by OMB in its attempts to get some tree programs in.
39 There is increasing bodies of evidence that if we're going to be able to deal with this
40 global warming issue, and other issues about scrubbing the air, it's going to be trees.
41 And Mr. Denis' bill, in essence, aims at the more mature trees and this issue of well,
42 we'll replace a 100-year-old tree with a sapling just doesn't cut it. It simply doesn't cut it
43 because the sapling is going to take a long time to be able to do what that 50, 75, 100-
44 year-old tree was doing, and in essence to some period of time, we're just taking that



October 17, 2006

1 tree out and for purposes of the environment, you're not replacing it. You're simply not
2 replacing it and that is the reality. So I believe that what Mr. Denis' bill is doing which
3 aims at the random destruction of the one piece of non-technological, natural way that
4 we have to deal with the environment is the way to go. And I thank him for bringing that
5 to the attention of Council. And I do hope that in the coming years, that DEP is given
6 broader latitude in terms of tree programs and other programs that will replace trees
7 and get more trees planted and do what Mr. Denis is doing here, in terms of protecting
8 the trees and dealing -- really dealing with the environmental issues that we have.

9
10 Council President Leventhal,
11 Mr. Denis.

12
13 Councilmember Denis,
14 Thank you, Mr. President. I thank Mr. Subin for his kind words and his support and my
15 seatmate, as well, Ms. Floreen, for the work she has invested in the subject matter, and
16 my co-sponsor Ms. Praisner for her abiding interest, as well. Anything worth doing is
17 worth doing right. So I think it's appropriate that whereas we're dealing with a specific
18 situation here that needs to be addressed and which we can understand because of its
19 particularity, that there is a larger problem that was alluded to in the testimony that we
20 had at the public hearing, to wit that we're losing our tree canopy in Montgomery
21 County. That there is a tremendous net loss of trees that needs to be addressed from
22 an environmental standpoint, from an aesthetic standpoint. And in that regard, I think a
23 lot of credit goes to Congressman Chris Van Hollen for directing his staff to work so
24 hard on this subject matter and basically forming the task force that is now known
25 euphemistically as the Van Hollen Task Force. And I'm honored to be the Council's
26 representative on it. We do have recommendations that are before us. I think it's
27 appropriate that they be reviewed by Planning Board staff, by our own staff, and by
28 individual members, and by the community. And I think that this is going to be a major
29 subject matter that the next Council is going to have to deal with. In a curious sort of
30 way, it reminds me of the bill we just passed, the drainage bill, so called. And again, I
31 compliment my seatmate for really getting to the heart of what have I was striving at in
32 my antimansionization bill that passed 8-1 after 2 1/2 years. The more you study these
33 subjects, the more you can come up with good ideas. And I think that the drainage
34 aspect -- and I was pleased to be a co-sponsor on that bill -- really goes to the heart,
35 part of the heart, anyway, one of the valves of the heart that that is all about. So I think
36 that the subject matter deserves greater scrutiny, which it is receiving, and I thank my
37 colleagues for the supportive response that they have given to this particular piece of
38 legislation that protects the Champion trees.

39
40 Council President Leventhal,
41 Mr. Subin.

42
43 Councilmember Subin,

October 17, 2006



1 Thank you. I apologize for taking up so much clock time here, but given that I won't be
2 here in a couple of weeks and over the years have learned some lessons, I'd like to
3 pass one of the lessons on. And it relates to my comment earlier about, you know, it
4 doesn't hack it to say you're going replace a 100-year-old tree with a sapling. There are
5 some of us up here who don't have certain background. It's not just the issue of
6 environmental background. It's we come out of certain communities with certain
7 interests and certain educations and don't always understand the implications of what is
8 being said and what is being requested. And I harken back to what was a major
9 argument in 1988 with the then-chair of the Planning Board, that had to do with streams
10 and stream protection and how wide buffers were going to be and what you were going
11 do about the tree canopy over the stream. And some of us didn't understand at the time,
12 because we didn't have scientific, ecological, environmental backgrounds and come out
13 of different communities, what the issue was. And it got down to one of the issues being
14 the trout being able to propagate and what was happening to their eggs when the fertile
15 eggs were laid, if they could lay fertile eggs. And it had to do, got down to it, two things;
16 silt and the temperature of the water. And the less that canopy and the less that buffer,
17 the warmer that water was going to be and the more runoff and silt you were likely to
18 get, so that the eggs were either getting covered up or the temperature was not
19 conducive to the development of those eggs. It's like taking a chicken egg and putting it
20 in an incubator that's at a 110 degrees. The chicken either isn't going to hatch or it's
21 going to come out deformed. But the argument was simply put the canopy in, don't put
22 the canopy in. The developer's willing to make some concessions; they're not good
23 enough. Why not? Folks, from both sides of the table, the real issues need to be laid out
24 because Councilmembers don't have a total exposure to every single subject that we
25 have. A requirement for being on the Council is not a Liberal Arts degree in which you're
26 required to take some of this and some of that and some of this and some of that. And
27 when you get into grad school, the education is even more discrete. So please, I beg of
28 you for the sake of the community at large and for the sake of the ability of
29 Councilmembers to make educated decisions, tell them why. Don't be afraid to be a
30 teacher and if a Councilmember is not willing to listen to your lessons -- I'm not talking
31 about where they end up, I'm talking about being willing to listen to the lessons -- they
32 shouldn't be up here. They shouldn't. So take those extra couple of minutes to educate
33 so that this body, whoever is here, can make better, more informed decisions. Again,
34 they may not always end up -- for whatever reason -- where you end up. And I will tell
35 you -- since I don't have a stake in this anymore -- 99.9% of the time, they're not making
36 those decisions for nefarious reasons. They just might end up seeing things different or
37 have other issues going on, but take the time to educate. Because we don't want to --
38 they shouldn't want to, make the wrong decision simply because they're uneducated.
39 And I think that Mr. Denis' bill is certainly an opportunity to get that across.

40
41 Council President Leventhal,
42 Mr. Andrews.

43
44 Councilmember Andrews,



October 17, 2006

1 Thank you, Mr. President. I want to thank Mr. Denis for introducing this bill. I note,
2 there's a list in the packet of, by my count, 157 Champion trees in the county and of
3 course, they all had to be identified. And it turns out that two individuals identified more
4 than a quarter of them by themselves; John Parish, who identified 26, and Joe Howard,
5 who founded the Champion Tree Program, identified 15. So, I think we owe them a
6 special thanks for their major efforts in identifying so many of the Champion trees in
7 Montgomery County.

8
9 Council President Leventhal,
10 Your light is still on, Mr. Andrews. Very good. The clerk will call the roll.

11
12 Council Clerk,
13 Mr. Denis?

14
15 Councilmember Denis,
16 Yes.

17
18 Council Clerk,
19 Ms. Floreen?

20
21 Councilmember Floreen,
22 Yes.

23
24 Council Clerk,
25 Mr. Subin?

26
27 Councilmember Subin,
28 Yes.

29
30 Council Clerk,
31 Mr. Silverman?

32
33 Councilmember Silverman,
34 Yes.

35
36 Council Clerk,
37 Mr. Knapp?

38
39 Councilmember Knapp,
40 Yes.

41
42 Council Clerk,
43 Mr. Andrews?



October 17, 2006

1 Councilmember Andrews,
2 Yes.

3
4 Council Clerk,
5 Mr. Perez?

6
7 Councilmember Perez,
8 Yes.

9
10 Council Clerk,
11 Ms. Praisner?

12
13 Councilmember Praisner,
14 Yes.

15
16 Council Clerk,
17 Mr. Leventhal?

18
19 Council President Leventhal,
20 Yes. The bill passes 9-0. We now convene in District Council Session and we have a
21 recommendation from the Hearing Examiner to permit the applicant on Application
22 Number G-809 to withdraw that application, Local Map Amendment G-809, without
23 prejudice. I don't know if we can have a short presentation by Mr. Grossman.

24
25 Marty Grossman,
26 Thank you, Mr. President. G-809 was a request to rezone some property along Seven
27 Locks Road to the RT-8 zone. I had recommended that the matter, after hearing, be
28 remanded because there were still stormwater management and traffic control
29 problems. The Council did vote to do that. Ultimately, the builder decided to withdraw
30 their participation and they requested that the matter be removed from the calendar and
31 that the withdrawal be without prejudice to the owner of the property seeking to rezone
32 this property again without the time limits that are imposed, potentially, by the Zoning
33 Ordinance. The owner then joined in that request and I have forwarded -- and I do
34 agree with the request because I think it's in the public interest. The rezoning was, I
35 believe, appropriate. It's just that the development plan had these other problems,
36 stormwater management and traffic problems. But I feel there is no good reason not to
37 allow it to be rezoned at some time in the immediate future.

38
39 Council President Leventhal,
40 Okay, can we have a motion?

41
42 Councilmember Subin,
43 So moved.



October 17, 2006

1 Councilmember Praisner,
2 Second.

3
4 Council President Leventhal,
5 Mr. Subin has moved and Ms. Praisner has seconded approval of the Hearing
6 Examiner's recommendation to permit the withdrawal of Local Map Amendment G-809.
7 And those in favor of the motion will signify by raising their hands. It is unanimous
8 among those present.

9
10 Marty Grossman,
11 Thank you, Mr. President.

12
13 Council President Leventhal,
14 Thank you. Next before the Council is Zoning Text Amendment 06-23: Signs - Place of
15 Assembly. This Zoning Text Amendment was introduced by myself, Mr. Knapp, and Mr.
16 Silverman. The PHED Committee has made some recommendations that would change
17 the allowable size of a sign under the ZTA. Mr. Zyontz is all ready with his cardboard
18 boxes; he's eager to make his case. I anticipate that when Chairman Silverman...

19
20 [LAUGHTER]

21
22 Councilmember Silverman,
23 I left my signs at home.

24
25 [LAUGHTER]

26
27 Councilmember Subin,
28 I've got a couple of mine in my trunk and I don't know what to do with them.

29
30 Council President Leventhal,
31 Since I'm the sponsor, and in the interest of conserving time, let me just say that at the
32 conclusion of Chairman Silverman's presentation of the Committee's recommendation I
33 will support a motion that I anticipate will be forthcoming to go back to the ZTA as
34 introduced, which was to allow 50 square feet for a sign by a place of assembly in a
35 residential zone. I am the sponsor of this ZTA. I appreciate working closely with Mr.
36 Knapp and I appreciated Mr. Silverman's co-sponsorship of this. My colleagues will
37 recall that in the month of June we invited faith community leaders from around the
38 county to share with us ways in which the faith community could work more productively
39 and effectively with county government. There have been a number of follow-up items
40 from that discussion. This was one. There was concern, particularly on very busy
41 streets, such as Clopper Road, which is the site of the United Church of Christ of
42 Seneca Valley, whose pastor is here in the audience and who brought to our attention
43 that a sign that was too small was not suiting the church's purpose and was not
44 enabling it to communicate about special events at the church. As the sponsor of this



October 17, 2006

1 ZTA, it seemed to me a relatively simple matter to accommodate signage for churches -
2 - these are temporary signs -- but nothing is simple at the Montgomery County Council.
3 And let me just note that the Planning Board did approve, did recommend in favor of the
4 50-foot size, as originally introduced. I am not going -- I'm hoping we don't have a
5 lengthy debate on this. It seems to me the issue is fairly clearly drawn and the question
6 is, you know, how big is too big? There is a difference, of course, between a church
7 located on a major street like Clopper Road, where we might understand that a sign that
8 is too small may not be noticed, vis-à-vis, you know, a smaller street in a busy
9 residential neighborhood. My hope would be that if the Council did go along with the
10 original intent of the ZTA and approve a sign at 50 feet, that we might believe that
11 churches have the good sense and the good taste to know that "up to 50" does not
12 necessarily mean 50 and that a 50-foot sign might not be appropriate, depending on the
13 church, depending on the location. But again, Mr. Zyontz has very strong views on this
14 and wants to protect our neighborhoods from expressions of faith that might be too
15 large and so we will have that discussion. I'm actually wrapping up my comments and I
16 don't expect to participate in the dialogue further, other than that I will support the
17 motion that I anticipate is forthcoming to go back to the original ZTA as introduced.
18 Chairman Silverman.

19
20 Councilmember Silverman,

21 Thank you, Mr. President, for that glowing introduction. The Committee did recommend
22 unanimously approval of ZTA 06-23 with amendments recommending establishing 24
23 square feet as the limit on the total area of temporary signs for places of assembly and
24 retaining 10 square feet as the limit for limited duration signs in residential zones.
25 Simply put, we wrestled for quite some time with whether there was a way to try to
26 come up with signs that would work for Clopper Road or for 124 or for any of the major
27 roads where people are zipping along, as opposed to the what I'll just call more
28 residential communities, which are all throughout the county, where there are places of
29 assembly, and we couldn't come up with something. We had a fairly lengthy, convoluted
30 discussion about the Road code and it wasn't as simple as is it a two-lane road or is it
31 residential or is it primary or whatever. And basically, we threw our hands up and said,
32 "Hey, if they can only do 10 feet now, then how about going to some middle ground"
33 And that's where we came up with 24 feet. And it's not much more complicated than
34 that,. And what you're saying is, in effect, 24 feet?

35
36 Jeff Zyontz,

37 As near as I could do it without getting rulers out, but each of the squares is 4.3 square
38 feet and so what you're seeing there is 5 1/2 squares.

39
40 Councilmember Silverman,

41 Right. The thought was that -- at least the Committee thought was we didn't want to
42 support 50 feet in what might be literally a very small residential -- a residential
43 community where you've got very narrow streets and a lot of houses. And, you know,
44 maybe they would put up a sign that would be 50 square feet, maybe they wouldn't, but



October 17, 2006

1 we thought it was more appropriate to try to come up with a number that was much
2 bigger than what the current law allows. And so there's what we came up.

3
4 Council President Leventhal,
5 Ms. Praisner.

6
7 Councilmember Praisner,

8 Well, I think the Council, unfortunately, in the area of signs, has caused more problems
9 for everyone than we've resolved. In trying to be responsive to free speech issues and
10 church and religious institution needs we have blurred the difference between
11 temporary signs and other kinds of signs. We've tried to be responsive and still respect
12 the fact that we're supposed to be content-neutral, which is what the attorneys told us
13 years ago. I think this is a work in progress that still needs significant work in the future.
14 But I view this, and I was the one who introduced the issue of roads because it seems
15 to me that if there is a challenge, as far as people seeing it, it's not just the size; it's also
16 the speed and the terrain and the topography, which doesn't relate to content. It relates
17 to where you're physically located. It also, with all due respect, relates to what you put
18 on the sign. You could do a pretty big-sized wording that says "Meeting Here Tonight"
19 or "Child Care" and the number and get your message out, in 20, 30, 42-font language,
20 so I think that's a good compromise. I think that's a good spirit of moving forward. I don't
21 support 50 feet. I think that's too big in many neighborhoods and, with all due respect to
22 folks who are on major highways, I think there are a variety of other ways to deal with
23 that issue that we need to continue to look at. But I thought, given the banners that we
24 see, that folks see on highways to be able to get their message out with the size of the
25 words. I think that I am going to continue to support the Committee's recommendation.

26
27 Council President Leventhal,
28 Mr. Knapp.

29
30 Councilmember Knapp,

31 Thank you, Mr. President. I appreciate the efforts of the Committee and I agree, there
32 probably is not going to be the best right answer and this probably is going to be a
33 discussion in progress. You know, the challenge that we have is we have different
34 neighborhoods, and to try and come up with something that reflects that. And I'd like to
35 think that in all of those neighborhoods that our faith community is going to be a good
36 neighbor like anyone else. And to the extent that you're in the middle of a neighborhood,
37 you're not going to put up a 50-foot sign because it's not going to make a lot of sense to
38 do it anyway. But there are going to be places where it's going to make a lot more
39 sense, and unfortunately or fortunately, a lot of those places are in some of your
40 Upcounty communities. And for that reason, I'm going to move the original legislation,
41 as it was introduced, to take us back to the 50-foot square foot sign.

42
43 Council President Leventhal,



October 17, 2006

1 I will second Mr. Knapp's motion, which is a substitute for the Committee's
2 recommendation. Mr. Silverman.

3
4 Councilmember Silverman,
5 I turned my light off.

6
7 Councilmember Praisner,
8 Mr. Zyontz wants...

9
10 Council President Leventhal,
11 Well, I know he does.

12
13 Councilmember Praisner,
14 Oh. All right. There's no other lights on.

15
16 Council President Leventhal,
17 I mean, if a Councilmember has a question for Mr. Zyontz, they may ask it. If not, I think
18 the Council's ready to vote. I know that Mr. Zyontz has views on this matter, but this is a
19 matter for the Council to vote on.

20
21 Jeff Zyontz,
22 I just want a clarification on whether the amendment also takes out the limited duration
23 size limit, as well. That is, the Committee recommended continuing the limit on limited
24 duration size to 10 feet, and I didn't know whether the motion being...

25
26 Councilmember Silverman,
27 Remind the Council again what the difference is between limited and temporary.

28
29 Jeff Zyontz,
30 A temporary sign needs to have a date on it and can be up for 30 days. It doesn't
31 require a permit, nor does a limited duration sign. But effectively there's no limit on the
32 time limit of a limited duration sign, and it also does not need a permit at this point. So
33 what you could have, if you don't include the 10 square foot limit, is you could have that
34 larger sign being a more permanent sign.

35
36 Council President Leventhal,
37 And...

38
39 Jeff Zyontz,
40 And the Committee...

41
42 Council President Leventhal,
43 ...what gave rise to this was concern over political signs?



October 17, 2006

1 Jeff Zyontz,

2 No. Just the fact that if the need for -- was for a temporary basis and it was advertising
3 an event that it was appropriate just to amend the temporary sign and not change the
4 limited duration sign requirements.

5
6 Councilmember Silverman,

7 These are different. I want to make sure people understand. These are different than
8 permanent signs?

9
10 Jeff Zyontz,

11 Yes.

12
13 Councilmember Silverman,

14 In other words, right now, places of assembly can have permanent signs and there's all
15 kinds of design elements and limitations on those. This bill doesn't deal with those.
16 We're literally talking about the banner-type scenarios here.

17
18 Council President Leventhal,

19 Right. Mr. Subin.

20
21 Councilmember Subin,

22 But the limited signs, Jeff, you can take them down for a day and put them back up with
23 a new date and start the clock all over again.

24
25 Jeff Zyontz,

26 You can if you change the sign, that's true.

27
28 Greg Russ,

29 May I make a point? For the record, Greg Russ from the Planning Board. Two issues
30 here. Because the limited duration sign ties back to the temporary sign, in terms of the
31 size of it, Jeff makes a very good point in terms of if you don't want the limited duration
32 sign to have the 50 square feet or 24, whichever you go with here, then you really need
33 to tie back the limited duration to the 10 square feet. The other thing, as you may
34 remember, some legislation maybe a year ago allowed the limited duration sign to be
35 more indefinite, in terms of the time frame, as opposed to before, I think it was maybe a
36 year's time frame the limited duration signs could be up. But now it's pretty much
37 indefinite in terms of the timeframe for that type of sign. So you may need some
38 clarification.

39
40 Councilmember Knapp,

41 I would keep the modification to the 10 square feet in "B," and then refer back to the 50
42 square feet in line 45.

43
44 Council President Leventhal,



October 17, 2006

1 Very good. So Mr. Knapp's substitute retains the Committee's language on lines 35 and
2 36 of Circle 4, but goes back to 50 feet on line 45 on Circle 4. That would be the
3 substitute motion that is now before the Council. Those in favor of the substitute will
4 signify by raising their hands. It is Mr. Denis, Ms. Floreen, Mr. Subin, Mr. Knapp, and
5 myself. Those opposed to the substitute will signify by raising their hands. It is Mr.
6 Andrews, Mr. Perez, Ms. Praisner, and Mr. Silverman. The substitute motion carries.
7 Now before the Council is ZTA 06-23 as amended. The clerk will call the roll.

8
9 Council Clerk,
10 Mr. Denis?

11
12 Councilmember Denis,
13 Yes.

14
15 Council Clerk,
16 Ms. Floreen?

17
18 Councilmember Floreen,
19 Yes.

20
21 Council Clerk,
22 Mr. Subin?

23
24 Councilmember Subin,
25 Yes.

26
27 Council Clerk,
28 Mr. Silverman?

29
30 Councilmember Silverman,
31 Yes.

32
33 Council Clerk,
34 Mr. Knapp?

35
36 Councilmember Knapp,
37 Yes.

38
39 Council Clerk,
40 Mr. Andrews?

41
42 Councilmember Andrews,
43 No.



October 17, 2006

1 Council Clerk,
2 Mr. Perez?
3
4 Councilmember Perez,
5 No.
6
7 Council Clerk,
8 Ms. Praisner?
9
10 Councilmember Praisner,
11 No.
12
13 Council Clerk,
14 Mr. Leventhal?
15
16 Council President Leventhal,
17 Yes. The ZTA -- was that 6-3?
18
19 Councilmember Praisner,
20 Yes.
21
22 Council President Leventhal,
23 The ZTA carries 6-3. And the Council stands adjourned until the hour of 1:30.

October 17, 2006



1 Councilmember Praisner,

2 **Good afternoon ladies and gentlemen. This public hearing on the special**
3 **appropriations to the MNCPPC** FY07 Capital Budget for acquisition, local parks in the
4 amount of \$2,545,000, for nonlocal parks in the amount of \$2 million, Special
5 Appropriations to the FY '07 Capital Budget, an amendment to the FY '07-12 Capital
6 Improvements Program for the South Germantown SoccerPlex in the amount of
7 \$1,087,000, for the Lake Needwood Dam remediation in the amount of \$3,800,000, for
8 the ball field initiatives in the amount of \$563,000, for the restoration of historic
9 structures in the amount of \$188,000, and amendments to the FY '07 to 12 CIP in the
10 Rock Creek Trail pedestrian bridge and the Wheaton Tennis Bubble renovation. The
11 Planning, Housing, and Economic Development Committee work session is tentatively
12 scheduled for October 23rd, 2006, at 9 AM. Persons wishing to submit additional
13 information for the Council's consideration should do so by the close of business
14 Wednesday, October 18th. Before beginning your presentation, please state your name
15 clearly for the record. We have one speaker, Trish Heffelfinger, for the Maryland Soccer
16 Foundation. Trish?

17
18 Trish Heffelfinger,
19 Good afternoon. My name is Trish Heffelfinger. I'm the Executive Director of the
20 Maryland Soccer Foundation and I will be talking on the Maryland SoccerPlex
21 Amendment. This is for our Phase Two development, fields 18, 19, and 20. Originally,
22 when we planned Phase Two, we thought of those as being...

23
24 [BEEPING]

25
26 Councilmember Praisner,
27 Whoops. Keep going.

28
29 Trish Heffelfinger,
30 ...as natural grass fields, but in the interim, since 2000, the technology for both lighting
31 and synthetic turf has improved to such a degree that we've decided that we are going
32 to develop these fields as synthetic turf fields and light them. This will enable us to use
33 the fields year round. We won't have to rest the fields. They'll generate additional
34 revenue more than a natural grass field, and they enable us to play lacrosse and field
35 hockey on the fields, which we have not been able to do on our grass fields. We held a
36 public meeting at the SoccerPlex for the neighboring communities on August 24th. We



October 17, 2006

1 did that so that it would be convenient for them to meet that evening. We had a
2 presentation by the lighting contractor, we did an overview of the development, and we
3 answered questions. The response was very favorable. In fact, at the end of the
4 presentation by the lighting contractor, the audience applauded, very unusual. Their
5 primary concerns were traffic and security. We've received a grant from the Hendricks
6 Family Foundation for the development of these fields so these fields will be debt-free.
7 We are entering into a development agreement with the Department of Parks, a draft of
8 which is being reviewed right now. And as part of our approved lease, we are required
9 to draft guidelines for permitting soccer fields. We drafted those guidelines in early
10 August. They were reviewed by the foundation's Advisory Committee at the end of
11 August are comments incorporated. We have reviewed them since with park staff and
12 they have provided some clarifications and the schedule is for the guidelines to go to a
13 public hearing before the Planning Board on November 2nd. We believe that the Phase
14 Two development will both be a product enhancement for the SoccerPlex and a
15 revenue enhancement. Thank you.

16
17 Councilmember Praisner,

18 Thank you, very much. There are no questions and that concludes this public hearing.
19 Good afternoon, ladies and gentlemen. This is a public hearing on a Special
20 Appropriation to the FY '07 Operating Budget of State's Attorney's office for the Family
21 Violence Unit in the amount of \$81,400. A Public Safety Committee work session is
22 tentatively scheduled for October 19th at 10:45 AM. The record will close at the
23 conclusion of the hearing. Before beginning your presentation, please state your name
24 clearly for the record. There are no speakers for this hearing. Good afternoon, ladies
25 and gentlemen. This is a public hearing on a Special Appropriation FY '07 Operating
26 Budget of the Department of Health and Human Services for Senior Nutrition Services
27 in the amount of \$60,240. A Health and Human Services Committee work session is
28 tentatively scheduled for October 23, 2006 at 2:30 PM. Persons wishing to submit
29 additional information to the Council's consideration should do so by the close of
30 business Wednesday, October 18th. Before beginning your presentation, please state
31 your name clearly for the record. And there are three speakers, Harold Wallach from the
32 Commission on Aging, Rebecca Motz, Springfield Terrace, and Joe Podson, Homecrest
33 Home. If you could all come forward. Staff has just given me a note from Mr. Kenney
34 that the Aging and Disability Service has just received word from the Maryland
35 Department of Aging that we have been authorized to carry over Federal Title III FY '06
36 funds into Federal Fiscal Year '07. We have confirmed that the carry-over funds are
37 sufficient to cover the cost of the Senior Nutrition meals, the contribution toward the cost
38 of those meals and the increased cost of MCPS prepared congregate site meals.
39 Therefore there is no need for a Council supplemental of approximately \$60,000, which
40 is always good news, but you folks have come here to testify and we will conclude the
41 hearing. Thank you, Joan; thank you, Jay; thank you Maryland Department of Aging.
42 Harold, you're first.

43
44 Harold Wallach,



October 17, 2006

1 Good afternoon. My name is Harold Wallach and I chair the Commission on Aging. I
2 reside at 5205 Myer Court in Rockville. The Montgomery County Commission on Aging
3 welcomes this opportunity to comment on the proposed supplemental funding for the
4 Senior Nutrition Program in Fiscal Year' 07. The Commission is pleased to hear that
5 there is sufficient funding, but I'd like to comment that the participants of the Senior
6 Lunch Program are primarily low income and many live alone. They depend upon the
7 hot, balanced, and healthful meal the program provides.

8
9 Councilmember Praisner,
10 Is the mic not on? Can you push...

11
12 Harold Wallach,
13 I'm sorry.

14
15 Councilmember Praisner,
16 I'm sorry, too. I can't see when it's not on.

17
18 Harold Wallach,
19 The Congregate Meal Program meets not only nutrition needs, but also offers a very
20 important means to counteract isolation and stimulate social participation. Recent
21 epidemiological studies clearly indicate that active participation in social networks
22 positively affects the physical and emotional well-being of seniors. This comes about in
23 four ways; provision of social support; secondly, social influence; thirdly, social
24 engagement and attachment; and fourth, access to resources and information. And it's
25 on this last point, it's important to mention the Senior Centers where the greatest
26 number of congregate meals are served offer a variety of positive senior programs and
27 services; for example, access to free blood pressure checks, help with income tax
28 preparation, trusted guidance regarding Medicare D, the prescription drug benefit, elder
29 law seminars, exercise classes focusing on balance and strength, preventing falls and
30 promoting weight control; as well as HeartWell and other health programs. The
31 Commission on Aging calls on the Council to approve supplemental funds for the Senior
32 Nutrition Program because vulnerable seniors will benefit not only in terms of diet, but
33 also from social participation and engagement, as well as access to the valuable
34 preventative services and informative programs available at the Senior Centers.

35
36 Councilmember Praisner,
37 Thank you. Rebecca?

38
39 Rebecca Motz,
40 My name's Rebecca Motz. I'm the Administrator of Springvale Terrace at 8505
41 Springvale Road in downtown Silver Spring. I'm going to go over a little bit of the letter
42 that I wrote George Leventhal. I think it clearly states why this program is so important.
43 Springvale Terrace has been a partner with this program since 1993. Right now we are
44 currently providing 40 of these residents with affordable meals. These meals allow them



October 17, 2006

1 to eat nutritiously, as well as be able to benefit from the social aspects of eating within
2 our facility. When we first got notice of the decrease in funding, it was not only going to
3 hilt the facility, but our residents who are low income. This was going to average to
4 about \$23 a month per resident of an increase of their meals. I am very excited to hear
5 about this money coming in that we will not have to allow our seniors to have this
6 increase. And thank you for allowing us to speak today.

7
8 Councilmember Praisner,
9 Thank you. Mr. Podson.

10
11 Joe Podson,
12 Good afternoon. Thank you for your support. My concern is I'm glad we went through in
13 '06 - '07, but it will be '07 and beyond that I want you to listen to. My name is Joe
14 Podson; I'm Executive Director of Homecrest House at 14508 Homecrest Road. We
15 service 290 low to very low income seniors and those with qualified disabilities. I also
16 represent GROWS as a board member and part of the Executive Director of GROWS.
17 And GROWS is a coalition of diverse organizations and individuals to achieve the
18 wellness of Montgomery County seniors. I have also the authority to state, on behalf of
19 Anne Kramer, who's the Director of Alzheimer's Association public hearing, that they
20 endorse the Council fully in funding this nutrition program. There's four Congregate
21 Housing sites in Montgomery County; we represent two. We focus on again on low to
22 very low income. Congregate Housing providers operate under the Maryland
23 Department of Aging. We offer bathing assistance, escort, housekeeping, laundry
24 service, service coordination, and most importantly meals. We serve two to three meals
25 per day in a dining room. We appreciate the county nutrition program and I do
26 appreciate Marilyn Mower's leadership and help. This reduction, or planned reduction --
27 and I'm concerned about future reductions, you know, that's going to hit us. It's not
28 going to hit me; it's going to hit the residents because we would have no choice of either
29 cutting out the program because they don't fund -- they don't give us money for the
30 meals. The money comes directly from the County. It's not like at the other senior
31 programs. Or we'd just have to pass on the cost to the residents. We plan our budgets
32 in April or May because through the Maryland Department of Aging, we budget for July
33 1st -- and I know the Montgomery County Nutrition Program is October 1st -- so we
34 budget and plan our year and it gets, you know, everything is under tight scrutiny. I did
35 sign the county budget for October 1st with a note to the county that under protest. I do
36 anticipate this will be retro to October 1st. Thank you. So this does help out. But one
37 thing that in the past, we've had these funds, as much as \$3.50, you know, a couple
38 years ago, then \$3.25, then \$3.00, and this year \$2.25. Yet next year, you know, it could
39 go even further. So please, you know, take a look at cutting a lawn mowing for the
40 county, you know, just one day and give us the money for next year. Thank you for your
41 time.

42
43 Councilmember Praisner,



October 17, 2006

1 We only mow the lawns about once or twice a year anyway. I'm afraid the grass keeps
2 growing.

3
4 Joe Podson,
5 All right, my residents will go out there and start mowing. For free. Exercise.

6
7 Councilmember Praisner,
8 We'll buy a goat.

9
10 [LAUGHING]

11
12 Joe Podson,
13 All right, there you go.

14
15 Councilmember Praisner,
16 Thank you so much. Jay, the transition information -- or the information means that it
17 can go back and capture the funding? Come on up to the table, please, before I close
18 the -- thank you for your work, Jay.

19
20 Jay Kenney,
21 Thank you. Again, it's...

22
23 Councilmember Praisner,
24 Introduce yourself before Delphine comes back up and yells at us.

25
26 Jay Kenney,
27 I'm Jay Kenney, Chief of Aging and Disability Services with the Montgomery County
28 Department of Health and Human Services. And yes, again, it was not any work of our
29 own doing; it was getting word from the Department of Aging that we would be able to
30 carry over these Federal Title III: Older Americans Act funds, We are confident that the
31 amount will cover the \$60,240, I believe it was...

32
33 Councilmember Praisner,
34 \$60,240, absolutely.

35
36 Jay Kenney,
37 Thank you. ...that was being sought and that will be retroactive to October 1st. And it
38 will, again, fully restore -- it will uncap the meals at Congregate sites and it will address
39 the 75-cent-per-meal reduction that was being implemented for the Congregate Housing
40 Services Programs.

41
42 Councilmember Praisner,
43 So there's no action that's required by the Council since it's already funding that you
44 have?



October 17, 2006

1
2 Jay Kenney,
3 No action is necessary, Mrs. Praisner.

4
5 Councilmember Praisner,
6 Okay. Well then, we can sit on this supplemental and take no action on it. Great.

7
8 Jay Kenney,
9 Thank you, and thank staff, Ms. Planell, for doing all the work to work it up.

10
11 Councilmember Praisner,
12 Well, thank you and thank you all for coming.

13
14 Jay Kenney,
15 You're welcome.

16
17 Councilmember Praisner,
18 This hearing has ended and the Council stands in recess. The Joint Management of
19 Fiscal Policy and Health and Human Services Committees' meeting is at 2:00 in this
20 room.
21